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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of) MM Docket No. 95-49
)
Amendment of Section 73.202(b))
Table of Allotments) RM-
FM Broadcast Stations)
Llano and Marble Falls, Texas)

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

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COMMENTS AND COUNTERPROPOSAL

Roy E. Henderson ("Henderson"), by his counsel, hereby submits his Comments and Counterproposal in the above-captioned proceeding, pursuant to Sections 1.415 and 1.420 of the Commission's rules. In support whereof, the following is submitted:

This proceeding began on May 1, 1995, when the Commission released a Notice of Proposed Rulemaking (DA 95-884) in a new Docket designated as "MM Docket 95-49" responsive to a petition (RM-8558) filed by Maxagrid Broadcasting Corporation ("Maxcorp") licensee of KLKM-FM requesting the deletion of channel 284C3 at Llano and its reassignment as channel 285C3 in Marble Falls with the petitioner's license modified accordingly for operation on the new channel in the new community. Although the Maxcorp petition also proposed replacing the channel deleted from Llano

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with new channel 242A, it did not include the required statement of intention to apply for use of that channel if allocated and that proposal was therefore not included in the NPR. The commission's NPR set a date of June 22, 1995 for comments and July 7, 1995, for reply comments.

Initially, we share the concern indicated by the Commission in the NPR (pa.3) where it notes that adoption of the Maxcorp proposal would result in deletion of the sole and only local service from the city of Llano, a prospect virtually prohibited by the Commission in its prior statements on the subject of proposed changes in community of license (See Modification of FM and TV authorizations to Specify a New Community of License 4 FCC Rcd 4870 (1989), Reconsideration Order (grntd in part), 5 FCC Rcd 7094 (1990) at 7097). The commission has consistently held that a change of community proposal will not ordinarily be granted if by so doing the original community's sole transmission service is removed. With the population of Llano at almost 3,000 and that of Marble Falls at 4,000, it is difficult, if not impossible, to envision what possible grounds could justify that proposed move and all that we have seen stated in the NPR is Maxcorp's suggestion that "...adoption of its proposal would provide service to a larger community" (NPR at pa 4).

In sum, we simply cannot see how the existing proposal by Maxcorp could be found to be "in the public interest" or how it could be adopted consistent with prior statements and rulings by the Commission on such matters. We therefore suggest herein an

alternate proposal which while it also involves a reallocation of communities does not suffer the infirmity of proposing the removal of any community's sole and only local service. As more fully set forth in the attached Engineering Statement Henderson proposes to delete a short-spaced channel 285A in Rosenberg, Texas, (occupied by Henderson's station KLTO(FM)) and reallocate it as fully spaced channel 285A to Katy, Texas; and to simultaneously delete short-spaced channel 285A from LaGrange, Texas, and reallocate it as fully spaced channel 285A in Smithville, Texas.

Channel 285A in LaGrange is presently occupied by KBUK(FM) as licensed to Fayette Broadcasting Corporation and, if adopted, Henderson would agree to reimburse that licensee for all reasonable expenses incurred from the relocation to Smithville, Texas, as requested. As noted, Channel 285A in Rosenberg is presently occupied by KLTO(FM), licensed to Petitioner Henderson who reaffirms here that upon adoption of the requested change, he will proceed to take all necessary actions to build and operate the station in Katy, Texas, as requested.

As noted in the attached Engineering Statement, both existing cities have other existing local service which would remain in service to those communities notwithstanding the reallocation of FM stations as proposed herein. In addition, both of the new cities proposed in this Counterproposal are well-established cities listed in the U.S. Atlas as such and well qualified as communities for radio station licensing and

allocation purposes (Katy has a population of over 8,000 and Smithville a population of over 3,000) and neither has any existing local transmission service of any kind.

The provision of first local service has long been recognized as a high priority in the Commission's consideration of rulemaking proposals, Revision of FM Assignment Policies and Procedures, 51 P&F RR 2d 807, 810 (1982), and would be well served by the instant counterproposal by Henderson which would provide a new such service with fully-spaced channels in two separate communities. The collateral benefit of changing two short-spaced channels to two fully-spaced channels on the same channel frequency would further serve the public interest through the enhanced efficient use of the allocated spectrum. See, generally Table of Allocations in Columbus, Nebraska, et.al, 51 Fed. Reg. 4926, Feb 10, 1986. To the extent that this can all be accomplished without depriving either existing community of other existing local service, it provides yet further public interest benefits to adoption of the proposal.

In sum, with adoption of this Counterproposal, the efficiency of the Table of Allocations will be improved twice by converting two existing short-spaced class A stations to fully-spaced class A stations; two new cities would receive their first local radio service; and both existing cities would retain at least one existing local radio service (KMPQ(AM) licensed to Rosenberg-Richmond and KBUK(AM) licensed to LaGrange). It is respectfully submitted that the reallocation as suggested here by

Henderson would therefore be in the public interest and should be adopted.

In view thereof, it is respectfully requested that the Commission amend the FM table of Allotments for the following communities:

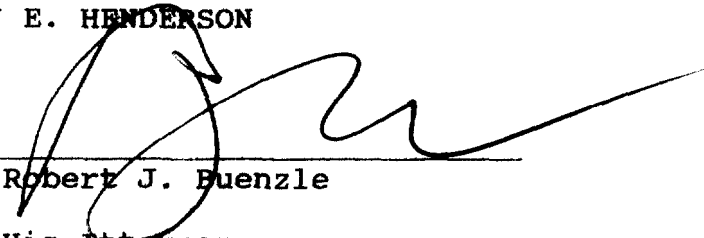
City	Present	Proposed
Rosenberg, Texas	285A-	-
Katy, Texas	-	285A+
LaGrange, Texas	285A-	-
Smithville, Texas	-	285A+

Wherefore it is respectfully submitted that adoption of this Counterproposal would be in the public interest and should be adopted.

Respectfully submitted,

ROY E. HENDERSON

by


Robert J. Buenzle

His Attorney

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June 22, 1995

Roy E. Henderson
14318 Spring Maple Lane
Houston, Texas 77062

COMMENTS AND COUNTERPROPOSAL
MM DOCKET 95-49

June 1995

STATE OF ILLINOIS)
) SS:
COUNTY OF PEORIA)

F. W. Hannel, after being duly sworn upon oath,
deposes and states:

He is a registered Professional Engineer, by
examination, in the State of Illinois:

He is a graduate Electrical Engineer, holding Bachelor
of Science and Master of Science degrees, both in Electrical
Engineering;

His qualifications are a matter of public record and
have been accepted in prior filings and appearances requiring
scrutiny of his professional qualifications;

The attached Engineering Report was prepared by him
personally or under his supervision and direction and;

The facts stated herein are true, correct, and
complete to the best of his knowledge and belief.

F W Hannel

June 21, 1995

F. W. Hannel, P.E.

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COMMENTS AND COUNTERPROPOSAL
MM DOCKET 95-49

June 1995

ENGINEERING STATEMENT

This firm has been retained by Roy E. Henderson, Licensee of Radio Station KLTO(FM), (formerly KMPQ(FM)), Rosenberg, Texas, to prepare this engineering statement in support of his Comments and Counterproposal in MM Docket 95-49 where the Commission is seeking comments on a proposal to delete the presently assigned FM Channel 284C3 at Llano, Texas, and the reassignment of that channel to the community of Marble Falls, Texas. This Counterproposal proposes that the Commission delete the presently assigned FM Channel 285A at Rosenberg, Texas, a short spaced class A channel, and reassign it to the community of Katy, Texas, as a fully spaced channel while simultaneously deleting the presently assigned FM Channel 285A at La Grange, Texas, and reassigning it to the community of Smithville, Texas.

The channel changes as proposed in this counterproposal result in the removal of a number of short-spacings, the addition of aural services to two new communities that are presently without a local aural assignment, all of which result in fully spaced allotments that fully comply with the Commission's minimum mileage separation requirements.

The community of Rosenberg, Texas, is presently served by AM station KMPQ(AM), as well as FM Station KLTO(FM). The requested reassignment of the FM

Channel to Katy, Texas, will not leave the community without an aural service. The reassignment of KLTO(FM) to the community of Katy, Texas, will provide that community with its first local aural outlet.

The community of La Grange, Texas, is presently served by KBUK(AM) as well as KBUK(FM). The requested reallocation of KBUK(FM) to the community of Smithville, Texas, will not deprive La Grange, Texas, of an aural outlet, but will provide the community of Smithville with its first aural service.

The realignment of FM channels as requested will result in the removal of short spacings for both of the FM stations involved, and, in addition, will remove an existing short spacing between KLTO(FM) and Radio Station KRTX(FM), Galveston, Texas. In sum, the changes proposed result in a channel realignment that fully complies with all of the Commission's mileage separation requirements, which substantially improves the short-spacing situation for all stations involved in this proposal.

The assignment of FM Channel 285A can be made to the community of Katy, Texas, (US Atlas co-ordinates N29-47-06, W95-49-18), at reference co-ordinates N29-44-22, W95-51-13, located 5.2 kilometers south of the community. Katy, Texas, is located in Fort Bend county, Texas, and has a population of 8,005 persons according to the 1994 Rand McNally Atlas. Attached as Exhibit E-1 is an FM Channel Study conducted from the reference site for the proposed assignment of FM Channel 285A at Katy, Texas, which clearly shows that the requested allocation can be made at the reference site in full compliance with the Commission's technical rules.

The assignment of FM Channel 285A can be made to the community of Smithville, Texas, (US Atlas co-ordinates N30-00-36, W97-09-48) at the community reference co-ordinates. Smithville, Texas, is located in Bastrop County, Texas, and has a population of 3,196 persons according to the 1994 Rand McNally Atlas. Attached as Exhibit E-2 is an FM Channel Study conducted from the city reference co-ordinates at Smithville, Texas, which clearly shows that the requested allotment can be made at this community in full compliance with all of the Commission's technical rules.

In view of the foregoing, it is respectfully requested that the Commission amend the FM Table of Allotments for the following communities:

Community	Present	Proposed
Rosenberg, Texas	285A-	-----
Katy, Texas	-----	285A+
La Grange, Texas	285A-	-----
Smithville, Texas	-----	285A+

The allotments requested above result in the assignment of a first local service to 2 new communities, the removal of a number of existing short-spaced allotments, and clearly provide substantial public interest benefits. No community is deprived of a local aural service, for both Rosenberg and La Grange, Texas, will be provided an aural service by existing AM facilities.

Roy E. Henderson
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FM Channel 285 Study
N29-44-22 W95-51-13
Katy, Texas

Exhibit E-1

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEAR
ALC	Bryan	TX	284	C2	U	119.6	106.0	336.0°	13.6
ALC	Ganado	TX	284	C2	V	106.5	106.0	215.2°	0.5
KKYS	Bryan	TX	284	C2	L	119.3	106.0	335.3°	13.3
NEW	Ganado	TX	284	C2	A	106.5	106.0	215.2°	0.5
ALC	Galveston	TX	285	A	U	117.6	115.0	112.5°	2.6
ALC	La Grange	TX	285	A	U	99.2	115.0	279.2°	-15.8
ALC	Rosenberg	TX	285	A	U	21.8	115.0	161.8°	-93.2
K285CS	North Houston, etc.	TX	285	D	L	36.9	0.0	59.9°	36.9
KBUK	La Grange	TX	285	A	L	99.2	115.0	279.2°	-15.8
KMPQFM	Rosenberg	TX	285	A	L	12.4	115.0	131.7°	-102.6
KRTX	Galveston	TX	285	A	D	114.8	115.0	109.4°	-0.2
KRTX	Galveston	TX	285	A	L	114.8	115.0	109.4°	-0.2
ALC	Hempstead	TX	287	C3	V	62.2	42.0	338.3°	20.2
KEZB	Hempstead	TX	287	A	C	58.8	31.0	327.8°	27.8
KEZB	Hempstead	TX	287	C3	A	64.9	42.0	345.0°	22.9

All Distances in Kilometers

Roy E. Henderson
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FM Channel 285 Study
N30-00-36 W97-09-48
Smithville, Texas

Exhibit E-2

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEAR
ALC	Bryan	TX	284	C2	U	110.8	106.0	44.3°	4.8
ALC	Ganado	TX	284	C2	V	134.2	106.0	150.7°	28.2
KKYS	Bryan	TX	284	C2	L	109.2	106.0	44.2°	3.2
NEW	Ganado	TX	284	C2	A	134.2	106.0	150.7°	28.2
ALC	La Grange	TX	285	A	U	32.0	115.0	116.2°	-83.0
ALC	Rosenberg	TX	285	A	U	142.7	115.0	110.8°	27.7
KBUK	La Grange	TX	285	A	L	32.0	115.0	116.2°	-83.0
KLKM	Marble Falls	TX	285	C3	A	110.5	142.0	295.9°	-31.5
KMPQFM	Rosenberg	TX	285	A	L	141.1	115.0	105.7°	26.1
ALC	Seguin	TX	287	C	U	134.2	95.0	232.6°	39.2
KSMG	Seguin	TX	287	C	L	134.2	95.0	232.6°	39.2

All Distances in Kilometers

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMENTS AND COUNTERPROPOSAL have been served by United States mail, postage prepaid this 22nd day of June, 1995 upon the following:

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Robert J. Buenzle

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